

Appl. No.: 09/851,404  
Amdt. dated March 25, 2008  
Reply to Office Action of January 16, 2008

### **REMARKS/ARGUMENTS**

This amendment is submitted in reply to the Office Action dated January 16, 2008. Claims 1-17 and 19-55 currently stand rejected and are the only claims pending in the present application. Independent claims 1, 36, 38, 41, 42 and 53 have been amended to more particularly distinguish the claimed invention from the cited references. Claims 10, 17, 22, 34 and 37 have been amended to correct informalities and claims 16 and 23-25 have been amended to correspond to the changes made with respect to other claims. Newly added claim 56 has been added to further define patentable aspects of the invention. No new matter has been added by the amendment. Claims 15 and 44 have been canceled, without prejudice.

In light of the amendment and the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present application.

#### **Specification**

Applicants have amended the specification to remove an errant phrase.

#### **Claim Objections**

Claims 10, 15, 17, 22, 34 and 37 have each drawn objection for containing informalities. As indicated above, claim 15 has been canceled and thus the objection to claim 15 is now moot. Applicants have amended claims 10, 17, 22, 34 and 37 to correct the informalities noted in the Office Action. Accordingly, Applicants respectfully request that the claim objections be withdrawn.

#### **Claim Rejections - 35 USC §101**

Claims 41, 49 and 50 stand rejected under 35 U.S.C. §101 as being non-statutory. In this regard, the Office Action asserts that independent claim 41 recites an apparatus with “means for” elements that do not clearly recite hardware. The Office Action then goes on to assert that the specification lacks description of the “means” as being anything other than computer software, thereby making the recited invention software *per se*. Applicants respectfully disagree.

Independent claim 41 recites three separate “means for” elements (e.g., means for

receiving, means for analyzing and means for generating. Applicants respectfully submit that one means disclosed for performing the receiving, analyzing and generating operations of independent claim 41 is described at page 7, lines 1-5 of the specification as filed, which describes transformation modules 36 and 38 of FIG. 5. The transformation modules are described thereafter as performing various functions, some of which are attributed to sub-routines or algorithms. As such, it appears as though the Office Action asserts that the sub-routines or algorithms comprise only software means and thus the claimed invention of independent claim 41 is software *per se*.

However, Applicants respectfully note that the specification clearly indicates that a transformation system may be employed at various locations including a wireless gateway and an origin server. The server and gateway are both well known to include a processor for executing applications or software. Moreover, when executing an application or software, the respective processor, and indeed the server or gateway, becomes means for performing the respective functions associated with the application or software being executed. As such, independent claim 41 does disclose a hardware component for means claimed. Accordingly, independent claim 41 does not recite software *per se*.

Furthermore, the patent laws support the position above. For example, as stated in the WMS Gaming case (*WMS Gaming v. International Game Technology*, 184 F.3d 1339 (Fed. Cir. 1999)), a “general purpose computer, or microprocessor, programmed to carry out an algorithm creates ‘a new machine, because a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software.’ *In re Alappat*, 33 F.3d 1526, 1545, 31 USPQ2d 1545, 1558 (Fed. Cir. 1994) (en banc); see *In re Bernhart*, 417 F.2d 1395, 1399-1400, 163 USPQ 611, 615-16 (CCPA 1969).” WMS Gaming further states that “in a means-plus-function claim in which the disclosed structure is a computer, or microprocessor, programmed to carry out an algorithm, the disclosed structure is not the general purpose computer, but rather the special purpose computer programmed to perform the disclosed algorithm. See *Alappat*, 33 F.3d at 1545, 31 USPQ2d at 1558.4.” Thus, in independent claim 41, one example of the structure is the server or the gateway programmed to perform the disclosed algorithm and the structure is not software *per se*.

Appl. No.: 09/851,404  
Amdt. dated March 25, 2008  
Reply to Office Action of January 16, 2008

Accordingly, Applicants respectfully submit that the rejection of independent claim 41 as being non-statutory is traversed. Claims 49 and 50 were rejected as being dependent from independent claim 41 and failing to recite statutory subject matter. However, since claims 49 and 50 depend from independent claim 41, which recites statutory subject matter, the prior rejections of claims 49 and 50 are also traversed.

**Claim Rejections - 35 USC §102**

Claims 1-3, 7-17, 22-25, 29-47 and 49-55 stand rejected under 35 U.S.C. §102(e) as being anticipated by Wyler (U.S. Patent No. 7,047,033).

Independent claims 1, 36, 38, 41, 42 and 53 have been amended to recite, *inter alia*, that the reorganization information includes a hyperlink to be displayed near the beginning of a first sub-document of the portions in the different order, the hyperlink pointing to a particular portion of the content that is not at a beginning of the order defined by the serial data. In other words, a hyperlink is provided in the beginning of the reorganized document that points, and therefore enables quick access, to a portion of the content received that came later in the ordering of the content prior to the generation of the reorganization information.

Wyler fails to teach or suggest this feature and is not cited as such. Notably, although Wyler describes weighting of various content items and a link cluster, there is no disclosure of Wyler that would suggest that any link be provided at the beginning of a reorganized document to point to content that was not at the beginning of content prior to reordering. Moreover, whether or not Wyler would have been modifiable to utilize the link cluster in such a way, there would be no reason other than impermissible hindsight to make such modification. Thus, Wyler fails to teach or suggest that the reorganization information includes a hyperlink to be displayed near the beginning of a first sub-document of the portions in the different order, the hyperlink pointing to a particular portion of the content that is not at a beginning of the order defined by the serial data as recited in independent claim 1.

Independent claims 36, 38, 41, 42 and 53 have also been amended to recite the underlined feature above. Accordingly, independent claims 36, 38, 41, 42 and 53 are patentable over Wyler for at least the same reasons given above for independent claim 1. Claims 2, 3, 7-17, 22-25, 29-

Appl. No.: 09/851,404  
Amdt. dated March 25, 2008  
Reply to Office Action of January 16, 2008

35, 37, 39, 40, 43-47, 49-52, 54 and 55 each depend directly or indirectly from a respective one of independent claims 1, 36, 38, 42 and 53 and therefore include all the recitations of their respective independent claims. Thus, dependent claims 2, 3, 7-17, 22-25, 29-35, 37, 39, 40, 43-47, 49-52, 54 and 55 are patentable for at least the same reasons given above for independent claims 1, 36, 38, 42 and 53.

Accordingly, the rejections of claims 1-3, 7-17, 22-25, 29-47 and 49-55 are overcome.

### **Claim Rejections - 35 USC §103**

Claims 4-6, 21, 26-28 and 48 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wyler in view of various combinations of Raghunandan (U.S. Patent No. 6,775,689), an article by Wei-Ying Ma et al., *A Framework for Adaptive Content Delivery in Heterogeneous Network Environments*, presented at Multimedia Computing and Networking (MMCN00), San Jose, California, USA, 2000 (hereinafter "Ma") and Kanevsky (U.S. Patent No. 6,300,947).

As stated above, Wyler fails to teach or suggest that the reorganization information includes a hyperlink to be displayed near the beginning of a first sub-document of the portions in the different order, the hyperlink pointing to a particular portion of the content that is not at a beginning of the order defined by the serial data as recited in independent claim 1.

Raghunandan, Ma and Kanevsky also fail to teach or suggest the above underlined feature and are not cited as such.

Since Wyler, Raghunandan, Ma and Kanevsky each fail to teach or suggest that the reorganization information includes a hyperlink to be displayed near the beginning of a first sub-document of the portions in the different order, the hyperlink pointing to a particular portion of the content that is not at a beginning of the order defined by the serial data as recited in independent claim 1, any combination of the cited references also fails to teach or suggest such feature. Accordingly independent claim 1 is patentable over the cited references taken either individually or in combination. As indicated above, independent claim 38 includes the above recited feature as well and is therefore patentable over the cited references for at least the same reasons given for independent claim 1. Claims 4-6, 21, 26-28 and 48 each depend either directly

Appl. No.: 09/851,404  
Amdt. dated March 25, 2008  
Reply to Office Action of January 16, 2008

or indirectly from corresponding ones of independent claims 1 and 38 and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 4-6, 21, 26-28 and 48 are patentable for at least those reasons given above for independent claims 1 and 38.

Accordingly, Applicants respectfully submit that the rejections of claims 4-6, 21, 26-28 and 48 are overcome.

**Newly Added Claim**

Applicants have added new claim 56 to more particularly define aspects of the present application. The new claim includes no new matter and is fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claim is in condition for allowance.

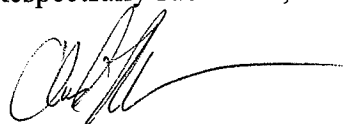
Appl. No.: 09/851,404  
Amdt. dated March 25, 2008  
Reply to Office Action of January 16, 2008

### **CONCLUSION**

In view of the amendments to the claims and the remarks presented above, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Chad L. Thorson  
Registration No. 55,675

**Customer No. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

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